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EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK NY 10165

In re Application of	:	
HANSEN, Peter, et al.	:	DECISION ON PETITION
Application No. 10/779,486	:	TO WITHDRAW THE
Filed: February 13, 2004	:	HOLDING OF ABANDONMENT

For: SYSTEM FOR PROVIDING STEP OUT COMMISSIONS AND COMPENSATION FOR RESEARCH BROKERS

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on March 30, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed May 13, 2004. A Notice of Abandonment was mailed on February 9, 2005.

Applicant's petition indicates that the Notice to File Corrected Application Papers mailed May 13, 2004 was never received. In support thereof applicant has provided an extract of the firms electronic docket records for the instant application (Appendix I) as well as other applications in which a Notice to File Corrected Application papers have been received (Appendices II, III and IV).

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around July 13, 2004.** See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office communication mailed May 13, 2004 was not received or placed in the physical or electronic docket for application 10/779,486. A complete docket record with a copy of the list of **all** responses in the practitioner's office with the due date at and around July 13, 2004 is required.

Petitioner's evidence of non-receipt of the Office communication mailed May 13, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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SNM/rjc 07/21/05